

MACOMB TOWNSHIP BOARD OF TRUSTEES REGULAR MEETING
HELD ON WEDNESDAY, NOVEMBER 9, 2005
AT 7:00 P.M.

LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS
54111 BROUGHTON ROAD
MACOMB, MICHIGAN 48042

PRESENT: JOHN D. BRENNAN, SUPERVISOR
MICHAEL D. KOEHS, CLERK
MARIE MALBURG, TREASURER
TRUSTEES: DINO F. BUCCI, JR.
JANET DUNN
ROGER KRZEMINSKI
NANCY NEVERS

ABSENT: NONE

Also in attendance: James Gelios, Deputy Clerk
Jerome R. Schmeiser, Community Planning Consultant
Lawrence W. Dloski, Township Attorney
James Van Tiflin, Township Engineer of Spalding DeDecker
& Associates. (Additional attendance record on file with
Clerk)

Call Meeting to Order

Supervisor BRENNAN called the meeting to order at 7:00 p.m.

Pledge of Allegiance

1. Roll Call

Clerk KOEHS called the Roll Call. All members present.

2. Approval of Agenda Items (*with any corrections*)

MOTION by BUCCI seconded by NEVERS to approve the agenda as amended.

MOTION carried.

3. Approval of the Bill Runs

MOTION by KRZEMINSKI seconded by DUNN to approve both of the bill runs as submitted.

MOTION carried.

4. Approval of the October 26, 2005 previous Meeting Minutes

MOTION by DUNN seconded by NEVERS to approve the October 26, 2005 minutes as submitted.

MOTION carried.

5. Approval of the Building Authority Contract Resolution for the Recreational Center Expansion

Dennis Neiman, Miller Canfield Paddock & Stone, P. L. C., reviewed the matter.

Public Portion: None

MOTION by KRZEMINSKI seconded by BUCCI to adopt the Building Authority Contract Resolution for the Recreational Center Expansion. The resolution as follows:

**TOWNSHIP OF MACOMB
COUNTY OF MACOMB, STATE OF MICHIGAN
RESOLUTION APPROVING
BUILDING AUTHORITY CONTRACT**

Minutes of a regular meeting of the Township Board of the Township of Macomb, County of Macomb, State of Michigan, held on the 9th day of November, 2005, at 7:00 o'clock p.m., Eastern Standard Time.

PRESENT: Members: Roger Krzeminski, Dino Bucci Jr, Nancy Nevers, Janet Dunn, Marie Malburg, Michael D. Koehs, John D. Brennan

ABSENT: Members: None

The following preamble and resolution were offered by Member Krzeminski and supported by Member Bucci :

WHEREAS, there exists in and for the Township of Macomb, County of Macomb, Michigan (the "Township"), a need to acquire, construct and equip additions, extensions and improvements to the Township's Recreation Center, together with necessary site improvements, as described in the Contract, as defined herein (the "Project"); and

WHEREAS, the Township Board hereby determines that it is necessary for the public health, safety and welfare of the Township to acquire the Project for the use of the Township; and

WHEREAS, Act 31, Public Acts of Michigan, 1948 (First Extra Session), as amended ("Act 31"), provides through the procedures of building authority financing a means for the acquisition, construction and financing of public buildings and facilities, including the Projects; and

WHEREAS, the Township, in accordance with the provisions of the Act 31, as amended, has previously adopted Articles of Incorporation and has established the Macomb Township Building Authority (the "Authority"), with full powers to acquire and construct such buildings and facilities; and

WHEREAS, the Township Board again determines it to be in the best interest of the Township to acquire and finance the Project through the Authority in accordance with the provisions of the Act 31, as amended; and

WHEREAS, a Limited Tax Full Faith and Credit General Obligation Contract of Lease, dated as of November 9, 2005 (the "Contract") between the Township and the Authority providing for the acquisition, construction and financing of the Project and such matters as are deemed necessary thereto has been prepared; and

WHEREAS, in reliance upon the lease payments of the Township payable under the Contract, the Authority intends to issue its building authority bonds pursuant to Act 31 for the purpose of paying the costs of the Project; and

NOW, THEREFORE, BE IT RESOLVED THAT:

- 1. The Township Board determines it to be necessary for the public health, safety and welfare of the Township to acquire the Project substantially as set forth in the Contract for the use of the Township.**
- 2. The Township Board deems it to be in the best interest of the Township to finance the cost of such facilities through the Authority in accordance with the provisions of Act 31.**
- 3. The Township Board hereby approves the Contract in substantially the form accompanying this Resolution for the acquisition and financing of the Project, with such changes or revisions as may be necessary or advisable from time to time prior to the sale of the Bonds as approved by the Supervisor.**
- 4. The Supervisor and the Township Clerk are hereby authorized to execute and deliver to the Authority the Contract approved by this**

resolution. A copy of the Contract shall be placed on file in the office of the Township Clerk and shall be available for public examination.

5. The Township Board does hereby ratify and confirm its covenant in the Contract to levy ad valorem taxes against all taxable property in the Township to the extent necessary to meet the obligations of the Township thereunder in the event revenues from other sources are insufficient for any reason whatsoever. Any such taxes levied to pay the cash rental under the Contract shall be limited as to rate or amount in the manner provided by law, and the Township Board hereby irrevocably pledges the recreational millage approved by the electors and which the Township is authorized to levy through December, 2021 as the primary source of payments by the Township under the Contract for such years.

6. The Supervisor, Clerk and Treasurer are each authorized and directed, on behalf of the Township to take any and all actions, perform any and all acts and execute any and all contracts, applications and other documents as shall be required, necessary or desirable to effect the proper public or private sale, execution and delivery of the Bonds and to implement the Contract, including, but not limited to: applying for ratings on the Bonds and consulting with rating agencies in connection therewith and causing a preliminary and final official statement with respect to the Bonds to be prepared and circulated.

7. The Supervisor, Clerk and Treasurer, or any of them, are also hereby authorized and directed, on behalf of the Township, to execute and delivery any documents or contracts necessary and advisable to accomplish the assignment or other conveyance of the Township's leasehold interest in the Site (as defined in the Contract) with respect to the financing contemplated herein.

8. The Township Board shall take actions within its control and it shall not fail to take any action as may be necessary to maintain the exemption of interest on the bonds issued by the Authority for the Project from gross income for Federal income tax purposes pursuant to the Internal Revenue Code of 1986, as amended (the "Code").

9. All resolutions and parts of resolutions insofar as the same conflict with the provisions of this resolution be and the same hereby are rescinded.

**AYES: Members: KRZEMINSKI, BUCCI, NEVERS, DUNN,
MALBURG, KOEHS, AND BRENNAN.**

NAYS: Members: None

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NOT VOTING: Members None

RESOLUTION DECLARED ADOPTED.

Township Clerk

I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the Township Board of the Township of Macomb, County of Macomb, State of Michigan, at a regular meeting held on November 9, 2005, and that the meeting was conducted and public notice of the meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of the meeting were kept and will be or have been made available as required by the Act.

**Michael D. Koehs, CMC
Macomb Township Clerk**

RESOLUTION DECLARED ADOPTED.

6. CONSENT AGENDA ITEMS:

6a. Clerks Department:

- 1. Extension of Time; Tentative Preliminary Plat; Stoneridge Subdivision (106 lots); Permanent Parcel No. 08-25-427-009. (Expires January 25, 2006)**
- 2. Extension of Time; Tentative Preliminary Plat; Legacy Farms Subdivision (308 lots); Permanent Parcel No. 08-24-401-004. (Expires October 27, 2005)**
- 3. Wall Sign Bond Return; USA Credit Union; Permanent Parcel No. 08-20-200-046. Address: 50786 Romeo Plank Rd.**
- 4. Wall Sign Bond Return; Butoku Karate Dojo; Permanent Parcel No. 08-32-100-022. Address: 16762 21 Mile Rd**
- 5. Wall Sign Bond Return; Baker's Square; Permanent Parcel No. 08-20-354-024. Address: 47250 Hayes Rd**
- 6. Landscape Bond Return; Gateway Village Estates; Permanent Parcel No. 08-07-300-014**

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7. Landscape Bond Return; Strathmore Condominiums
Phase I; Permanent Parcel No. 08-04-100-029

Addition:

8. Site Plan Bond; Fairway Commons
Condominiums. Permanent Parcel No. 08-34-200-014.

Addition:

9. Landscape Bond Return; Fairway Commons
Condominiums. Permanent Parcel No. 08-34-200-014.

6b. Water & Sewer Department Requests:

1. Easement Encroachment Agreement, Lot 71, Chelsea
Park Subdivision
2. Easement Encroachment Agreement, Lot 55,
Cornerstone Subdivision

MOTION by KRZEMINSKI seconded by MALBURG to approve the consent agenda items as submitted.

MOTION carried.

7. Public Comments (Non Agenda items only - 3 minute time limit) - None

PLANNING COMMISSION:

8. **Final Preliminary Plat; Portofino Villas Subdivision (43 Lots);** Located on the west side of Card Road, 1/2 mile north of 23 Mile Road; Portofino Villas, LLC, Petitioner. Permanent Parcel No. 08-15-426-006.

Jerome R. Schmeiser, Community Planning Consultant, reviewed the request and the recommendation for approval.

Petitioner Present: Andy Coden

Public Portion: None

MOTION by KOEHS seconded by NEVERS to approve the Final Preliminary Plat; Portofino Villas Subdivision (43 lots); pursuant to all standard conditions of the Planning Consultants as they relate to this proposal, and with the condition that the Landscape Plan submitted on November 9, 2005 be revised as follows: The plan must bear the seal of a registered Landscape Architect; the 8' pedestrian pathway from Pine Cone Drive must

be relocated to the open space area and be situated in the center of the access; the plan must indicate that those areas on either side of the access drive shall be sodded and irrigated; the plan must include the notation, "8' wide asphalt pathway" for the 8' pedestrian pathway along Card Road south of Pine Cone Drive; and that these added pathways must be installed per engineering standards with the remainder of the pathways located within the subdivision boundaries. Permanent Parcel No. 08-15-426-006.

MOTION carried.

OLD BUSINESS:

9. **Request to Reconsider the Temporary Certificate of Occupancy Request; Waldenburg Plaza (Warren Bank);** Located on the east side of Romeo Plank Road approximately 300 feet south of 22 Mile Road. Warren Bancorp., Petitioner. Permanent Parcel No. 08-28-101-010

Jerome R. Schmeiser, Community Planning Consultant and John D. Brennan, Township Supervisor reviewed the request.

Petitioner Present: Guy Rizzo and Damian Kassab

Public Portion: None

MOTION by KOEHS seconded by NEVERS to reconsider their October 26, 2005 action to deny the Temporary Certificate of Occupancy Request for Warren Bank in the Waldenburg Plaza. Permanent Parcel No. 08-28-101-010.

MOTION carried.

MOTION by BUCCI seconded by KRZEMINSKI to approve the Temporary Certificate of Occupancy for Warren Bank in the Waldenburg Plaza for a period of six (6) months commencing November 9, 2005 and ending May 9, 2006 with the following condition: No further Temporary Certificate of Occupancy Requests will be made until the owner has constructed the required pedestrian walkway and bridge, "Including the pedestrian/vehicular separation with the fences railings and walkway approaches to the bridge from the Brook Run South Subdivision and to the Waldenburg Plaza" in a manner satisfactory to the Macomb County Road Commission and Macomb Township Engineer. Permanent Parcel No. 08-28-101-010.

MOTION carried.

NEW BUSINESS:

10. **Model Permits; Sec. 23; Parkview Estates Subdivision**
(Lots 1, 2, 3, and 9) GTR Builders Inc, Petitioner.

Supervisor BRENNAN reviewed the request.

Petitioner Present: Christopher Cousino

Public Portion: None

MOTION by KOEHS seconded by DUNN to approve the Model Permit Requests for the Parkview Estates Subdivision for lot numbers 1,2,3, and 9 pursuant to the Seven Thousand Five Hundred Dollars and 00/100 (\$7,500.00) bond which must be posted per lot, a signed Model Permit Agreement for each lot and 2 copies of legal description & drawing for each lot submitted to Clerk's Office. (Plot plans will not be accepted).

MOTION carried.

11. **Request to Schedule the Public Hearing Date for December 14, 2005; Clearstone Subdivision; Special Assessment District; Street Lighting;** Located on the southwest corner of 26 Mile and Luchtman Roads; Salvatore DiMercurio & Frank Karam, Petitioners. Permanent Parcel No. 08-05-200-011.

Supervisor BRENNAN reviewed the request.

Petitioner Present: Salvatore DiMercurio & Frank Karam

Public Portion: None

MOTION by BUCCI seconded by KRZEMINSKI to approve the request to Schedule the Public Hearing Date for December 14, 2005; Clearstone Subdivision; Special Assessment District; Street Lighting; Permanent Parcel No. 08-05-200-011.

MOTION carried.

12. Approval of the Operation and Maintenance Agreement: Storm Water Treatment Unit: Elder Automotive Group, Petitioner. Section 33

Supervisor BRENNAN reviewed the matter.

Public Portion: None

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MOTION by KRZEMINSKI seconded by MALBURG to approve the Operation and Maintenance Agreement Storm Water Treatment Unit; Elder Automotive Group, Petitioner. Section 33

MOTION carried.

Addition:

12A. Approval of the Operation and Maintenance Agreement; Legacy Estates Subdivision; Temporary Retention Basin

Supervisor BRENNAN reviewed the matter.

Public Portion: None

MOTION by KOEHS seconded by DUNN to approve the Operation and Maintenance Agreement; Legacy Estates Subdivision; Temporary Retention Basin.

MOTION carried.

OLD BUSINESS:

13. Request to Pay Insurance Deductible regarding Simonne Grabow vs Macomb Township (Tabled from the October 26, 2005 Meeting)

Supervisor BRENNAN reviewed the matter.

Public Portion: None

MOTION by DUNN seconded by NEVERS to approve to pay the insurance deductible regarding Simonne Grabow vs. Macomb Township.

MOTION carried.

BUILDING DEPARTMENT:

14. Request to Attend the Electrical Education Seminar

Dennis LeMieux, Building Official Assistant, reviewed the request.

Public Portion: None

MOTION by DUNN seconded by BUCCI to approve the request to allow Bob Osterman to attend the Electrical Education Seminar in Frankenmuth, Michigan for the total cost of Three Hundred Seventeen Dollars and 90/100 (\$317.90) which includes the cost for lodging and the seminar fees. Reimbursement for costs involving meals and mileage are pursuant to the

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Township Policy. This seminar will begin December 7, 2005 and end December 9, 2005.

MOTION carried.

HUMAN RESOURCE DEPARTMENT:

15. Request for an extended Leave of Absence – Sharalyn Arft

John F. Brogowicz, Human Resource Director, reviewed the request.

Public Portion: None

MOTION by KRZEMINSKI seconded by NEVERS to approve the request submitted by Sharalyn Arft for additional time off as a unpaid Personal Leave of Absence from the Human Resource Department beginning November 26, 2005 and to expire January 2, 2006. Mrs. Arft will return to work January 3, 2006.

MOTION carried.

Addition:

15a. Request to re-advertise the Fire Chief Position

John F. Brogowicz, Human Resource Director, reviewed the request.

Public Portion: None

MOTION by KOEHS seconded by KRZEMINSKI to approve the request to re-advertise the position and extend the application period for the position of Fire Chief until November 30, 2005 with two (2) modifications to the minimum requirements as follows: To allow applicants who are currently MFR certified to apply for the position provided that EMT Certification is achieved within six months following the date of hire; and to allow applicants that have held the rank of Captain or higher for a minimum of two (2) years to apply for this position.

MOTION carried.

16. Request to initiate recruitment process for a Mechanical/Plumbing Inspector

John F. Brogowicz, Human Resource Director, reviewed the request.

Public Portion: None

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MOTION by BUCCI seconded by NEVERS to approve the request to start the recruitment process for the position of Mechanical/Plumbing Inspector to replace Ken Borycz in the Building Department whose last date of employment was October 24, 2005.

MOTION carried.

PARKS AND RECREATION DEPARTMENT:

17. Request to approve the Gym Floor Annual Recoating

Salvatore DiCaro, Parks & Recreation Director, reviewed the request.

Public Portion: None

MOTION by DUNN seconded by NEVERS to approve the annual request to recoat the Community Recreational Building Gymnasium Floor through Foster Specialty Floors for the total cost of Two Thousand Three Hundred dollars and 00/100 (\$2,300.00).

MOTION carried.

WATER & SEWER DEPARTMENT:

18. DWSD Easement Encroachment Agreements,
A. Char Estates
B. Bridge Water Estates

This request was removed from the agenda, no action taken.

19. Approval of Snow Equipment for New Dump Truck

This request was tabled to the November 22, 2005 Board of Trustees Meeting.

BOARD COMMENTS:

20. Supervisor Comments:
A. Liaison Position to Emergency Management Position

Supervisor BRENNAN reviewed the request.

Public Portion: None

MOTION by BUCCI seconded by NEVERS to approve the request to fill the vacant position of the Macomb Township Liaison to the Macomb County

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Emergency Management with Captain Richard Koss and Sergeant Richard Williams.

MOTION carried.

Additions:

20b. Request to Adopt Ordinance No.229 Adopting by Reference the 2003 international Fire Code.

Supervisor BRENNAN reviewed the request.

Public Portion: None

MOTION by DUNN seconded by BUCCI to adopt Ordinance No.229 Adopting by Reference the 2003 International Fire Code resolution as follows:

**TOWNSHIP OF MACOMB
MACOMB COUNTY, MICHIGAN
ORDINANCE NO. 229
ADOPTING BY REFERENCE THE
2003 INTERNATIONAL FIRE CODE**

An ordinance of the Township of Macomb adopting the 2003 edition of the *International Fire Code*, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the Township; providing for the issuance of permits and collection of fees therefor; repealing all other ordinances and parts of the ordinances in conflict therewith.

The Board of Trustees of the Township of Macomb does ordain as follows:

Section 1. That a certain document, copies of which are on file in the office of the Township Clerk of the Township of Macomb being marked and designated as the *International Fire Code*, 2003 edition, as published by the International Code Council, be and is hereby adopted as the Fire Code of the Township of Macomb, in the State of Michigan, for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms

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of said Fire Code on file in the office of the Township of Macomb are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

Section 2. The following sections of the International Fire Code are hereby revised:

Section 101.1. Insert, The Township of Macomb

Section 103.1. Delete

Section 103.2. Delete

Section 103.3. Delete

Section 109.3. Insert, Misdemeanor punishable by a fine of \$500.00 and/or 90 days in jail

Section 111.4. Insert, not less than \$500.00 for each day the violation occurs.

Section 3. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Township of Macomb hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. **SEVERABILITY**

If any section, paragraph, clause or provision of this Ordinance is for any reason held invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not effect any of the remaining provisions of this Ordinance.

Section 6. **PUBLICATION**

A true copy of this Ordinance or summary thereof shall be published in the Macomb Daily, a newspaper of general circulation in the Township of

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Macomb within fifteen (15) days after its adoption.

Section 7. EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after publication.

Section 8. CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Township Board of Macomb Township, Macomb County, Michigan at a meeting held on the 9th day of November, 2005, by the following vote of the members thereof:

**YES: DUNN, BUCCI, NEVERS, KRZEMINSKI, MALBURG, KOEHS,
AND BRENNAN**

NAYS: NONE

ABSENT: NONE

This Ordinance was published in the Macomb Daily Newspaper as required by law in its edition for November 19, 2005.

**Michael D. Koehs, Clerk
The Township of Macomb**

RESOLUTION DECLARED ADOPTED.

20c. Request to amend the previous from the October 26, 2005 Board of Trustees Meeting regarding Commercial Moratoriums.

Supervisor BRENNAN reviewed the matter.

Public Portion: Several Township Developers expressed their thoughts and suggestions relating to Commercial Moratoriums.

MOTION by KRZEMINSKI seconded by BUCCI to amend the October 26, 2005 Board of Trustees motion on Commercial Moratoriums and authorize the continuation of processing of all applications for parcels of land that are currently master planned commercial and/or zoned commercial. Further, all parcels of land that are currently master planned and/or zoned commercial are excluded from this moratorium.

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MOTION carried.

21. Clerk Comments:

Addition:

21a. Voter Registration Card Printing and Mailing

Clerk KOEHS reviewed the request.

Public Portion: None

MOTION by DUNN seconded by MALBURG to approve the request to purchase Voter Registration Cards and for both the printing and mailing for the total cost of Eight Thousand Four Hundred Seventy Seven dollars and 50/100 (\$8,477.50) as submitted.

MOTION carried

Addition:

21b. Request for Training – Account Clerk

Clerk KOEHS reviewed the request.

Public Portion: None

MOTION by BUCCI seconded by MALBURG to approve the request and allow Meghan Campbell to attend the Wages, Hours and Pay Seminar for Michigan Public Agencies held in Frankenmuth, Michigan, at the Bavarian Inn Motorlodge beginning December 19, 2005 from 9:00 a.m. until 4:30 p.m. Ms. Campbell will be permitted to drive to the destination that Sunday evening prior and stay overnight so she will not have a long drive that Monday Morning. The total cost of this request, Three Hundred Seven dollars and 00/100 (\$307.00) includes lodging and the seminar fee. Meals and Mileage will be reimbursed pursuant to the Township Policy.

MOTION carried.

22. Treasurer Comments: None

23. Trustees Comments:

Trustee KRZEMINSKI reminded all in attendance how the Township Offices will be closed on Veterans Day and ask that everyone recognize and appreciate all the people who have served our country.

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EXECUTIVE SESSION:

MOTION by KOEHS seconded by BUCCI to adjourn into executive session 7:51 p.m.

MOTION carried. The members of the Board reconvened at 8:08 p.m.

24. LandTec Investment Assessment

MOTION by KOEHS seconded by BUCCI to authorize legal counsel to continue negotiations relating to the LandTec Investment Assessment.

MOTION carried.

25. PTI Plat Vacation

MOTION by KOEHS seconded by MALBURG to approve the combination of the parcels and sign the consent order for the PTI Plat Vacation.

MOTION carried.

26. Acquisition of easement from Rigole

MOTION by KOEHS seconded by DUNN to authorize Attorney to accept case evaluation regarding the acquisition of easement from Rigole.

MOTION carried.

ADJOURNMENT:

MOTION by BUCCI seconded by NEVERS to adjourn this meeting at 8:09 p.m.

MOTION carried.

Respectfully submitted,

John D. Brennan, Supervisor

Michael D. Koehs, CMC
Macomb Township Clerk
MDK/gmh